

REMARKS

A Notice of Appeal was filed on April 10, 2006. This Amendment is filed prior after filing a Notice of Appeal but prior to filing the Appeal Brief. Claims 18, 20, 23 through 26 and 31 through 36 are currently pending. Claims 1 through 17, 19 and 27 through 30 were previously canceled. Applicant proposes to amend claim 18 and 20 to place the claims in better form for consideration on appeal. No new matter is added.

Proposed Amendment

Applicant proposes to amend claims 18 and 20 pursuant to 37 C.F.R. 41.33 and 1.116. Applicant proposes to amend claim 18 to recite a “method of treating morning stiffness, loss of grip strength, painful joints, or swollen joints in a rheumatoid arthritis patient suffering from morning stiffness, loss of grip strength, painful joints, or swollen joints, consisting of identifying that a patient suffers from morning stiffness, loss of grip strength, painful joints, or swollen joints and administering to the patient that suffers from morning stiffness, loss of grip strength, painful joints, or swollen joints a morning stiffness, loss of grip strength, painful joints, or swollen joints ~~treating~~an effective amount of erythropoietin over a treatment period; identifying that said patient that suffers from morning stiffness, loss of grip strength, painful joints, or swollen joints, has, after said treatment period in comparison to before said treatment period, a lower level of morning stiffness, loss of grip strength, painful joints, or swollen joints.”

Applicant proposes to amend claim 20 to recite a “ method of ameliorating an erythrocyte sedimentation rate or C-reactive protein level in a rheumatoid arthritis patient in need of such amelioration, consisting of identifying that a patient is in need of such amelioration;~~and~~ administering to the patient an erythrocyte sedimentation rate or C-reactive protein level activity ameliorating effective amount of erythropoietin over a period; and identifying that the erythrocyte sedimentation rate or C-reactive protein level in said patient has been ameliorated.”

Pursuant to 37 C.F.R. §1.116, “an amendment presenting rejected claims in better form for consideration on appeal may be admitted.” In the current application, applicant submits that the proposed amendments correct a typographical error in the claim and thus places rejected

claim 18 and claim 20 in better form for consideration on appeal. Consideration and entry of the proposed amendment is requested.

CONCLUSION

If questions remain after consideration of the foregoing, the Office is kindly requested to contact applicants' attorney at the address or telephone number given herein.

Respectfully submitted,



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